IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA

          Plaintiff,   Case No. 3:15-CR-169

-vs-   Judge Thomas M. Rose

CHARLES M. MCBEATH

          Defendant.

**ENTRY AND ORDER DENYING DEFENDANT'S MOTION
FOR SENTENCE REDUCTION PURSUANT TO 18 U.S.C. SECTION 3582 AND
RETROACTIVE AMENDMENT 782 U.S.S.G**

This matter comes before the Court pursuant to an untitled document filed by the Defendant, *pro se*, on August 14, 2017 (doc. 155) to which the Court has interpreted as a "Motion for Sentence Reduction Pursuant to 18 U.S.C. Section 3582 and Retroactive Amendment 782 U.S.S.G."

Defendant requests that the Court reduce his sentence in the above captioned matter pursuant to the retroactive application of Amendment 782 to drug offenses pursuant to 18 U.S.C. Section 3582(c).

The Defendant was sentenced on June 13, 2017. At that time the 2016 manual was in effect and utilized by the Court in Defendant's sentencing. It should be noted that the 2016 manual incorporated guideline amendments effective November 1, 2015, including Amendment 782. Therefore, the 2016 manual utilized by the Court included the drug reductions enacted by the amendment.
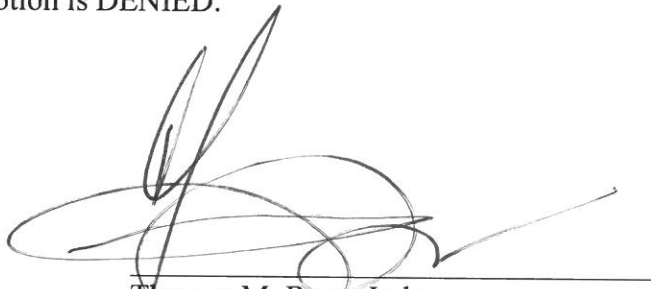
Since McBeath was sentenced after Amendment 782 became effective, making §3582(c)(2) inapplicable because there was no subsequent (i.e. post-sentence) change to his guidelines, the Court correctly calculated McBeath's base offense level using the 2016 Sentencing Guidelines Manual,

which incorporated the amended §2D1.1 drug quantity table. (PSR¶¶56-58; R.148 Statement of Reasons (sealed), Page ID#607). Because he was sentenced after Amendment 782 became effective and because the Court already used the amended drug quantity table at sentencing, McBeath has already received the benefit of the change Amendment 782 made to the guidelines and is ineligible for a §3582(c)(2) reduction based on that same amendment.

McBeath's §3582(c)(2) Motion is DENIED.

IT IS SO ORDERED.

September 5, 2017

Thomas M. Rose, Judge
United States District Court